

REMARKS

A. Status of the Application

- Claims **10** and **43-74** are pending in the application, of which claims **10, 53** and **64** are independent claims.
- Claim **10** has been amended.
- Claims **1-9** and **11-42** are cancelled.
- Claims **43-74** are newly added. No new matter has been introduced.

Accordingly, entry of the amendments is respectfully requested. Applicants intend to pursue the subject matter of the previously cancelled claims, in one or more continuing applications.

B. Reopening of Prosecution

By this paper, Applicants reopen prosecution and reply to the Final Action of July 22, 2008, and respectfully request reconsideration of the application. Applicants intend that the claims as now pending be interpreted under the ordinary interpretation understood in the art. Applicants hereby rescind, and no longer intend that the claims be limited by, any assertion, statement, argument, amendment or other action in this patent application, or any application whose file history is available for use in interpreting any patent issuing on this application, that might be taken to be a surrender or disclaimer of any subject matter from the scope of any claim. No such assertion, statement, argument, amendment or any other action in this application or in any such available application should be taken as a surrender or disclaimer from, and may not be used to interpret, any claim of this patent, or any claim of any patent to which such Applicants' file histories may be pertinent.

Applicants hereby request that the Examiner re-visit any previous surrender, disclaimer or characterization of claims, and re-visit any prior art that may have been avoided or intended to be avoided by such surrender, disclaimer or characterization. In addition, a new search is requested.

C. Claim Rejections Under 35 U.S.C. § 101

On page 2, the Examiner rejected to claims 10-18 under 35 U.S.C. §101 because the claimed invention is allegedly directed to non-statutory subject matter. The rejection is moot in light of the claim amendments.

D. Claim Rejections Under 35 U.S.C. § 112

On page 2, the Examiner rejected claims **25-42** under 35 U.S.C. § 112, ¶ 2, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the Examiner argues that claims **25-42** represent improper dependent claims reciting both computer readable medium and system to carry out a method of claim as stated. Although claims **25-42** are cancelled, newly added claims **53-74** share the same claim format as claims **25-42**.

As previously argued in the Appeal Brief, the Examiner has failed meet his *prima facie* burden of rejecting the claims as indefinite. Claims **53-74** are written as claims that refer to a previous claim-- an acceptable claim format according to the MPEP 2173.05(p)(I), which states: “[a] claim to a device, apparatus, manufacture, or composition of matter may contain a reference to the process in which it is intended to be used without being objectionable, so long as it is clear that the claim is directed to the product and not the process.”

Claims **53-74** are merely written in simplified form by referring to a previous claim-- and not explicitly repeating all the recitations of the cited claim—for the

convenience of the Examiner and the public. By writing claims **53-74** in referential format, during prosecution the Examiner need only to review the amendments to the method language (rather than in both claims) to verify consistency or identify differences.

For at least this reason, Applicants would like to defer this issue until method claims **10** and **43-52** are in condition for allowance.

E. Claim Rejections Under 35 U.S.C. § 102

On page 3, the Examiner rejected claims 10-18 and 25-42 under 35 U.S.C. § 102(b) as being anticipated by U.S. Publication No. 20040236662 (“Korhammer”). The rejection is moot in light of the claim amendments.

For example, nowhere in the cited-portions of Korhammer is there a teaching of following limitation of independent claims **10, 53** and **64**:

... transmitting, via the processor, **a disclosure amount for the trading order**, in which the disclosure amount is a portion of the quantity of the trading product that is to be disclosed (emphasis added).

At best, the cited-portions of Korhammer teach a “sweep order” that allows users to trade anonymously. Specifically, a user specifies “a total quantity and limit price,” and the system in Korhammer will “pick off all available liquidity within that limit without allowing other users/trader’s to know that the user is trying to buy/sell.” See Korhammer, para. 55. There is no discussion, whatsoever, in Korhammer of the user specifying “a disclosure amount,” i.e., the portion of the quantity of the trading product that is to be disclosed.

By contrast, independent claims **10, 53** and **64** are not concerned with maintaining complete anonymity for its users. Instead, the claims are directed at a different concern: a user who wishes to obtain or sell a large quantity of a trading product may not want to

disclose the total quantity to the public. By allowing the user to specify a “disclosure amount,” the system described in independent claims **10, 53** and **64** permits a user to disclose only “a portion” of the total quantity of the desired trading product.

Thus, for at least this reason, no prima facie case of anticipation has been established for independent claims **10, 53** and **64** (and the claims that depend therefrom).

F. Conclusion

Applicants hereby authorize the USPTO to communicate with any authorized representative concerning this application by electronic mail.

Applicants respectfully submit that the claims overcome the Examiner's rejections in the Final Action, and the claims are in condition for allowance. Applicants requests that the application be passed to issue in due course. The Examiner is urged to telephone the Applicants' undersigned attorney at the number noted below if it will advance the prosecution of this application, or with any suggestions to resolve any condition that would impede allowance.

Applicants' undersigned attorney can be reached at the address shown below. All communications should be directed to the undersigned at her direct line (857) 413-2056 or e-mail address: rma@cantor.com.

Respectfully submitted,

Date: June 28, 2010

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